

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 61

Filed by: Trial Section Merits Panel
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

TOKIHIKO SHINOMIYA, TSUGIKO TANIGUCHI,
TOMOAKI KURATATE, and KENICHI NAKAGAWA

Junior Party,
(Reexamined Patent No. B1, 5,347,381)¹

v.

YUKIO HANYU, YUTAKA INABA,
MASANOBU ASAOKA, OSAMU TANIGUCHI, KENJI SHINJO,
and TOSHIHARU UCHIMI

Senior Party.
(Application 08/527,775)²

Patent Interference No. 104,097

Before McKELVEY, Senior Administrative Patent Judge, and
SCHAFFER and LEE, Administrative Patent Judges.

¹ Reexamined Patent B1 5,347,381, Reexamination Control No. 90/003,956, Application 07/823,857, filed January 22, 1992. Accorded the benefit of Japanese application 32395/1991, filed January 31, 1991. The real party in interest is Sharp Kabushiki Kaisha, of Japan.

² Filed September 13, 1995. Accorded the benefit of U.S. applications 08/272,652 (filed July 11, 1994), 08/115,269 (filed September 2, 1993), 07/984,543 (filed December 2, 1992), 07/663,436 (filed March 1, 1991), and Japanese applications 2-174492 (filed July 3, 1990), 2-139033 (filed May 28, 1990), 2-90414 (filed April 6, 1990), and 2-49582 (filed March 2, 1990). The real party in interest is Canon Kabushiki Kaisha, of Japan.

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LEE, Administrative Patent Judge.

JUDGMENT

On March 16, 2000, a decision on preliminary motions was rendered in this case by an administrative patent judge. (Paper No. 59). The decision contained an order for junior party Shinomiya to show cause why judgment should not be entered against it on the ground that it has chosen, for its priority case, to rely on its accorded benefit date of January 31, 1991, and has failed in its efforts to attack the accorded benefit dates of the senior party which are on various dates in 1990.

Party Shinomiya was given twenty (20) days to respond to the show cause order, and no response has been filed. On the morning of April 11, 2000, Paralegal Specialist Ms. Yolunda Townes of the Board called junior party's counsel Mr. George W. Neuner to ascertain if the junior party had filed a response to the show cause order, and was informed by Mr. Neuner that no such response was filed and that the junior party does not intend to file a response.

On the basis of the notice provided by junior party's counsel to Board personnel on April 11, 2000, entry of

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judgment against the junior party is now appropriate.

It is

ORDERED that judgment is herein entered against the junior party TOKIHIKO SHINOMIYA, TSUGIKO TANIGUCHI, TOMOAKI KURATATE, and KENICHI NAKAGAWA;

FURTHER ORDERED that judgment is herein awarded in favor of the senior party YUKIO HANYU, YUTAKA INABA, MASANOBU ASAOKA, OSAMU TANIGUCHI, KENJI SHINJO, and TOSHIHARU UCHIMI;

FURTHER ORDERED that junior party TOKIHIKO SHINOMIYA, TSUGIKO TANIGUCHI, TOMOAKI KURATATE, and KENICHI NAKAGAWA is not entitled to its claims 1, 2 and 4 which correspond to the count; and

FURTHER ORDERED that senior party YUKIO HANYU, YUTAKA INABA, MASANOBU ASAOKA, OSAMU TANIGUCHI, KENJI SHINJO, and TOSHIHARU UCHIMI, on this record, is entitled to a patent containing its claims 48, 49, 51 and 52, which correspond to the count.

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FRED E. McKELVEY, Senior)
Administrative Patent Judge)
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_____)
RICHARD E. SCHAFER)
Administrative Patent Judge)
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_____)
JAMESON LEE)
Administrative Patent Judge)

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) AND
INTERFERENCES

By Federal Express

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